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FILED
OCT 19 1982
ALEXANDER L. STEVAS,
CLERK

No. 82-156

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1982

CITY OF RIVERSIDE, LINFORD L. RICHARDSON, MICHAEL S. WATTS, DAN PETERS, GERALD MILLER, and ROBERT PLAIT,

Petitioners,

vs.

SANTOS RIVERA, JENNIE RIVERA, DONALD RIVERA, JEROME RIVERA, LEE ROY RIVERA, MARK LARABEE, ENRIQUE FLORES, and MANUAL FLORES, JR.,

Respondents.

On Petition For Writ Of Certiorari
To The United States Court of Appeals
For The Ninth Circuit

PETITIONERS' REPLY TO BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

KOTLER & KOTLER

BY: JONATHAN KOTLER

Suite 903
8500 Wilshire Boulevard
Beverly Hills, CA 90211
(213) 652-6273

Attorneys for Petitioners

QUESTIONS PRESENTED FOR REVIEW:

What are the proper standards within which a district court may exercise its discretion in awarding attorneys fees to prevailing parties under Section 1988 of Title 42 of the United States Code.

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TABLE OF AUTHORITIES

Cases

Hensley v. Eckerhart
_____ U.S. _____, 71 L.Ed.2d 847,
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42 U.S.C. §1988 i, 2, 3

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STATEMENT OF THE CASE

Petitioners hereby incorporate by reference their "Statement of the Case" as it appeared in their Petitioner for

Writ of Certiorari previously filed herein, at pages 7-23 thereof.

ARGUMENT

I. Certiorari Has Recently Been Granted by this Court on a Key Issue Raised in the Instant Petition.

One of the principal arguments raised in Petitioners' Petition for Writ of Certiorari herein is that review is necessary in the instant matter because, contrary to decisions cited in other circuits, the Ninth Circuit does not proportion attorneys fees awards made under 42 U.S.C. §1988 to accurately reflect the extent to which the plaintiffs have prevailed on the merits of their lawsuit.

In the instant matter, as has been repeatedly raised on every level from

trial, through the Ninth Circuit, and in the within Petition, Respondents recovered on only 14% of their claims against only 19% of the defendants sued, and yet, were awarded attorneys fees for 100% of the time they submitted on their entire case, at an hourly rate which bears no relationship to what they customarily charged, or, apparently, to what was then the going rate in the community for litigators of their experience in civil rights matters.

It now appears that this Honorable Court is about to decide the question of whether or not an award of attorneys fees made pursuant to 42 U.S.C. §1988 should be proportioned to accurately reflect the extent to which plaintiffs actually prevail on the merits of their lawsuit in the district court, as a

result of the granting of certiorari last term in the case of **Hensley v. Eckerhart**, No. 81-1244, ____ U.S. ____, 71 L.Ed.2d 847, 50 U.S.L.W. 3695 (March 1, 1982).

Thus, it would seem entirely logical that since certiorari has already been granted on one of the key issues raised in the within matter, that the Petition herein should likewise be granted to avoid the continued split of authorities that now reigns among the various circuits.

CONCLUSION

For the foregoing reasons, as well as for the reasons raised in the Petition for Writ of Certiorari previously filed herein, the said Petition should be granted.

Respectfully submitted,
KOTLER & KOTLER
BY: JONATHAN KOTLER
Attorneys for Petitioners